

**HB 1702** - H AMD 217

By Representative Lias

WITHDRAWN 03/04/2011

1 On page 1, beginning on line 5, strike all of section 1 and insert  
2 the following:

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4 "Sec. 1. RCW 82.02.050 and 1994 c 257 s 24 are each amended to  
5 read as follows:

6 (1) It is the intent of the legislature:

7 (a) To ensure that adequate facilities are available to serve new  
8 growth and development;

9 (b) To promote orderly growth and development by establishing  
10 standards by which counties, cities, and towns may require, by  
11 ordinance, that new growth and development pay a proportionate share  
12 of the cost of new facilities needed to serve new growth and  
13 development; and

14 (c) To ensure that impact fees are imposed through established  
15 procedures and criteria so that specific developments do not pay  
16 arbitrary fees or duplicative fees for the same impact.

17 (2) Counties, cities, and towns that are required or choose to  
18 plan under RCW 36.70A.040 are authorized to impose impact fees on  
19 development activity as part of the financing for public facilities,  
20 provided that the financing for system improvements to serve new  
21 development must provide for a balance between impact fees and other  
22 sources of public funds and cannot rely solely on impact fees.

23 (3) (a) Counties, cities, and towns collecting impact fees must  
24 adopt a permanent system for the collection of impact fees from  
25 residential applicants for building permits issued for a lot or unit  
26 created by a subdivision, short subdivision, site development permit,

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1 binding site plan, or condominium that includes one or more of the  
2 following:

3 (i)(A) A process by which an applicant for any development permit  
4 that requires payment of an impact fee may record a covenant against  
5 title to the lot or unit subject to the impact fee obligation. A  
6 covenant under this subsection (3)(a)(i) must also serve as a lien.  
7 The covenant must require payment equal to one hundred percent of the  
8 impact fee applicable to the lot or unit at the rates in effect at the  
9 time building permit was issued, less a credit for any deposits paid.

10 (B) Covenants recorded in accordance with this subsection  
11 (3)(a)(i) must provide for payment of the impact fee through escrow at  
12 the earlier of the following: The time of closing of sale of the  
13 applicable lot or unit; or in accordance with the applicable county,  
14 city, or town ordinance, eighteen or more months after the building  
15 permit is issued. Impact fees that are not paid in accordance with  
16 the timeline requirements of this subsection (3)(a)(i) are subject to  
17 a late charge of five percent and interest at the rate of twelve  
18 percent per annum commencing on the date on which payment was due and  
19 until paid in full. Payment of impact fees due at closing of a sale  
20 must, unless an agreement to the contrary is reached between buyer and  
21 seller, be made from the seller's proceeds. In the absence of an  
22 agreement to the contrary, the seller bears strict liability for the  
23 payment of the impact fees.

24 (C) Either a seller or a seller's agent, or both, of property  
25 subject to a deferral covenant authorized under this subsection  
26 (3)(a)(i) must provide written disclosure of the covenant to a  
27 purchaser or prospective purchaser as provided in chapter 64.06 RCW.  
28 Disclosure of the covenant must include the amount of impact fees  
29 payable and the entities to which fees are to be paid at closing; or

30 (ii) A process by which an applicant may apply for a deferral of  
31 the impact fee payment until final inspection or certificate of  
32 occupancy, or equivalent certification.

33 (b) Counties, cities, and towns may adopt local systems for the  
34 collection of impact fees that differ from the requirements of this

1 subsection (3) if the payment timing provisions are consistent with  
2 those of this subsection.

3 (4) The impact fees:

4 (a) Shall only be imposed for system improvements that are  
5 reasonably related to the new development;

6 (b) Shall not exceed a proportionate share of the costs of system  
7 improvements that are reasonably related to the new development; and

8 (c) Shall be used for system improvements that will reasonably  
9 benefit the new development.

10 ~~((4))~~ (5)(a) Impact fees may be collected and spent only for the  
11 public facilities defined in RCW 82.02.090 which are addressed by a  
12 capital facilities plan element of a comprehensive land use plan  
13 adopted pursuant to the provisions of RCW 36.70A.070 or the provisions  
14 for comprehensive plan adoption contained in chapter 36.70, 35.63, or  
15 35A.63 RCW. After the date a county, city, or town is required to  
16 adopt its development regulations under chapter 36.70A RCW, continued  
17 authorization to collect and expend impact fees shall be contingent on  
18 the county, city, or town adopting or revising a comprehensive plan in  
19 compliance with RCW 36.70A.070, and on the capital facilities plan  
20 identifying:

21 ~~((a))~~ (i) Deficiencies in public facilities serving existing  
22 development and the means by which existing deficiencies will be  
23 eliminated within a reasonable period of time;

24 ~~((b))~~ (ii) Additional demands placed on existing public  
25 facilities by new development; and

26 ~~((c))~~ (iii) Additional public facility improvements required to  
27 serve new development.

28 (b) If the capital facilities plan of the county, city, or town is  
29 complete other than for the inclusion of those elements which are the  
30 responsibility of a special district, the county, city, or town may  
31 impose impact fees to address those public facility needs for which  
32 the county, city, or town is responsible."  
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EFFECT: Modifies proposed impact fee deferral requirements applying to jurisdictions that impose impact fees by: (1) limiting the deferral requirements to residential applicants for building permits; (2) extending the deferral provisions to binding site plans; (3) allowing the applicable county, city, or town to extend the deferral beyond 18 months; (4) specifying late charges and interest penalties for impact fees that are not timely paid; (5) deleting a provision pertaining to dwellings built on land that is owned or otherwise controlled by a party who contracts for the construction of a dwelling; and (6) allowing counties, cities, and towns to adopt local impact fee deferral systems that differ from prescribed requirements if the payment timing provisions are consistent with specified requirements.

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